

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of ____, 2006:

Present

Vote

Walter C. Zaremba, Chairman
Kenneth L. Bowman, Vice Chairman
Sheila S. Noll
James S. Burgett
Thomas G. Shepperd, Jr.

On motion of ____, which carried __, the following ordinance was adopted:

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 4, ANIMALS AND FOWL, YORK COUNTY CODE, TO BRING IT INTO CONFORMANCE WITH THE CODE OF VIRGINIA DUE TO LEGISLATION ADOPTED BY THE 2006 VIRGINIA GENERAL ASSEMBLY

BE IT ORDAINED by the York County Board of Supervisors, this ____ day of ____, 2006, that Chapter 4 of the York County Code, be and it is hereby amended to read and provide as follows, such amendment to become effective as of July 1, 2006:

Sec. 4-33. Definitions.

For the purpose of this article, and unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Dangerous dog. Any canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat; ~~However~~, when a dog attacks or bites ~~another dog~~ companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the ~~other dog~~ or cat as a result of the attack or bite or (ii) both ~~dogs~~ animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or

inflicting injury on ~~another a~~ dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Treasurer. Includes the treasurer of the county or other officer designated by law to collect taxes in the county.

Vicious dog. Any canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or on or before July 1, 2006, by the animal control officer pursuant to ~~section 4-37 (j)~~ prior law that it is a dangerous dog, provided that its owner has been given notice of that finding.

* * *

Sec. 4-37. Dangerous and Vicious ~~and dangerous~~ dogs.

- (a) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of ~~the ordinance~~ this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia § 3.1-796.119. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The County or the Commonwealth shall be required to prove its case beyond a reasonable doubt.
- (b) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a

person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass ~~or other tort~~ upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal ~~which~~that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, ~~or its owner~~a person, or its owner's or custodian's property, shall be found to be a dangerous dog, or a vicious dog.

- (c) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.
- (ed) The owner of any animal found to be dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control officer or treasurer for a fee of fifty dollars in addition to other fees that may be authorized by law. The animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this sub~~division~~section shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.
- (de) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal has been neutered or spayed, and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

(ef) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

~~(f) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.~~

~~(g) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia § 3.1-796.93:3, within 45 days of such a finding by a court of competent jurisdiction.~~

~~The owner shall also cause the animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.~~

(gh) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, ~~notify~~cause the animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies; ~~or (iv) has been moved to a different address.~~ Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

~~(h) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.~~

~~(i) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:~~

~~(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or~~

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

(3) Class 1 misdemeanor if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(j) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

(ik) All fees collected pursuant to ~~the ordinance~~this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by ~~the ordinance~~this section, shall be paid into a special dedicated fund ~~maintained by them in the treasury of the County~~ for the purpose of paying the expenses of any training course required of animal control officers under Code of Virginia § 3.1-796.104:1.

~~(j) Notwithstanding the provisions of subdivision (a), the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.~~

* * *

Sec. 4-46. Application; applicant must be county resident.

(a) Any person may obtain a dog license by making oral or written application to the treasurer, accompanied by the amount of the license tax and the certificate of vaccination required by section 4-69 of this article, or evidence satisfactory to the treasurer that such certificate has been obtained. The treasurer shall have authority to license only dogs of resident owners or custodians who reside within the boundary limits of this county and may require information to establish the location of the residence of any applicant.

- (b) It shall be unlawful for any person to make a false statement in, or present any false evidence with, an application submitted under this section, in order to secure a dog license to which he is not entitled.

* * *

Sec. 4-48. When tax due and payable.

The license tax imposed by section 4-47 of this article shall be due and payable not later than thirty (30) days after a dog has reached the age of four (4) months, or not later than thirty (30) days after an owner acquires a dog four (4) months of age, and each year thereafter, as follows:

- ~~(a) On January first, and not later than January thirty first of each year, the owner of any dog four (4) months old or older shall pay such tax.~~
- ~~(b) If a dog shall become four (4) months of age or come into the possession of any person between January first and November first of any year, the license tax for the current calendar year shall be paid forthwith by the owner.~~
- ~~(c) If a dog shall become four (4) months of age or come into the possession of any person between October thirty first and December thirty first of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect such dog from the date of purchase.~~

* * *

Sec. 4-51. Issuance, composition and contents of license.

- (a) Upon receipt of a proper application and the prescribed license tax, the treasurer shall issue a dog license; provided that no such license shall be issued for any dog, unless there is presented to the treasurer a certificate of vaccination, or other evidence satisfactory to the treasurer that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian or a currently licensed veterinarian technician who was under the immediate and direct supervision of a licensed veterinarian on the premises issued pursuant to section 4-69 of this article in accord with the provisions of such section. Upon issuance of the license, the treasurer shall make notation of the date of issuance of the license on the certificate of vaccination or other document, and return the certificate or other document to the applicant. It shall be unlawful for any person to present a certificate of vaccination for a dog other than that for which it was issued.
- (b) Each dog license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and

address of the owner or custodian of the dog, the date of payment, the year for which issued, the serial number of the tag and whether the license is issued for a male, or a female, whether spayed or neutered, or unsexed female dog or for a kennel. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county and the calendar year for which issued and shall bear a serial number.

- (c) The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of such licenses.

* * *

Sec. 4-69. Inoculation of cats and dogs.

- (a) It shall be unlawful for any person to own, keep, possess, board or harbor any cat or dog over the age of four (4) months within the county, unless such cat or dog has been inoculated against rabies by a currently licensed veterinarian or by a licensed veterinarian technician who was under the immediate and direct supervision of a licensed veterinarian on the premises, and the term of effectiveness of such inoculation has not expired.
- (b) Any person bringing a cat or dog into the county from another jurisdiction shall conform to this section within ten (10) days after bringing such cat or dog into the county.
- (c) At the time of inoculation as required by this section, a certificate of inoculation shall be issued to the owner. Such certificate shall at a minimum show the signature of the veterinarian, the animal owner's name and address, the species of the animal, the sex, the age, the color, the primary breed, the secondary breed, whether or not the animal is spayed or neutered, the vaccination number, the expiration date, and the locality in which the owner resides~~show the date of inoculation and duration of its effectiveness, the number of the rabies tag issued, a brief description of the cat or dog and its sex and breed and the name of the owner thereof.~~
- (d) A violation of any provision of this section shall be punished by imposition of a civil penalty as is set out in section 1-10 of this Code.